IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

Writ Petition No. 462 (SS) of 2004

Smt. Maheshi Devi,
W/o late Sri Dilip Singh,
R/o Village – Lolti,
Tehsil – Tharali, District – Chamoli
Presently residing at village – Harmani
Malla, P.O. – Harmani Tehsil – Tharali,
District – Chamoli. **…….Petitioner.**

Versus

1. State of Uttaranchal through Secretary, Home, Civil Secretariat, Lucknow.
2. Deputy Inspector General of Police (Karmik), Police Headquarters, Allahabad.
3. Finance Controller, U.P. Police, Headquarters, Allahabad.
4. Deputy Inspector General of Police / Principal Police Training School, Moradabad (U.P.).
5. Smt. Gaweli Devi, wife of late Sri Dilip Singh, resident of village – Lolti Patwari Circle – Talwari, Tehsil – Tharali, District – Chamoli.

…….Respondents

Hon'ble M.M. Ghildiyal, J

Heard Sri N.S. Negi, learned counsel for the petitioner and Smt. Beena Pandey, learned Standing Counsel for State of Uttar Pradesh on behalf of respondents no. 1 to 4. No one is present on behalf of respondent no. 5.

By means of this writ petition, the petitioner has prayed for the following reliefs:

I. issue a writ, order or direction in the nature of Mandamus directing the respondents to pay arrears of

family pension to the petitioner with effect from 05.06.1988 with interest at the rate of 18% per annum.

II. *issue a writ, order or direction in the nature of Mandamus directing the respondents to pay family pension to the petitioner forthwith.*

III. *issue a writ, order or direction in the nature of Mandamus directing the respondents to pay GPF service gratuity, group insurance benefits, leave encashment with interest at the rate of 18% per annum to the petitioner.*

IV. *issue any suitable writ, order or direction, which this Hon'ble Court may deem fit and proper in the circumstance of the case.*

V. *Award the cost of the writ petition to the petitioner.*

The case of the petitioner is that husband of the petitioner, Sri Dilip Singh expired on 05.06.1988 before attaining the age of superannuation while in service as Sub Inspector (Teacher), in Police Training School, Moradabad.

Petitioner and respondent no. 5 filed application for obtaining succession certificate in the court of Munsif, Karan Prayag, District – Chamoli and District Judge, Chamoli respectively. Application of petitioner was connected with application of respondent no. 5 and transferred to the court of District Judge, Chamoli.

Learned District Judge, Chamoli on 19.06.1990 has held that petitioner – Smt. Maheshi Devi is the legally wedded wife of late Sri Dilip Singh and as such, she is the only legal

heir of late Sri Dilip Singh and is entitled for succession certificate.

Aggrieved with the order dated 19.06.1990 passed by District Judge, Chamoli, respondent no. 5 filed FAFO No 770 of 1990 before Allahabad High Court and Allahabad High Court on 28.07.1990 passed an interim order in favour of the respondent no. 5.

After creation of State of Uttaranchal, aforesaid FAFO was transferred to this court. During the pendency of the FAFO petitioner as well as respondent no. 5 entered into a registered compromise outside the court on 12.06.2002. In view of that compromise the FAFO was dismissed.

Since the retirel dues of the petitioner's husband were not paid to the petitioner in spite of the fact that succession certificate has been issued by the District Judge, Chamoli and petitioner and respondent no. 5 have entered into compromise, petitioner was constrained to file present writ petition.

Learned counsel for the petitioner has submitted that during the pendency of the writ petition, in compliance of court's order dated 11.05.2004 all retirel dues, except GPF and amount due towards GIS, of the petitioner's husband including pension has been paid to the petitioner on 26.05.2005.

On 26.05.2005, Deputy Inspector General of Police, Police Training School, Moradabad wrote a letter to the petitioner that amount of GPF and GIS is due for payment and petitioner may submit certified copy of the compromise held between petitioner and respondent no. 5.

In pursuance to the aforesaid letter, petitioner has already submitted certified copy of compromise before Deputy Inspector General of Police, Police Training School, Moradabad in the year 2005. However, till date respondents have not paid amount of GPF and amount due towards GIS.

Counter affidavit has been filed by the respondents. In paragraph 15 of the counter affidavit, it is submitted that after examination of pension papers of the petitioner's husband, family pension and amount of leave encashment has been sanctioned to the petitioner. There is no mention in the counter affidavit why the petitioner is not being paid the amount of GPF and amount due towards GIS.

In the circumstances aforesaid, I deem it fit and proper to direct the respondents to make payment GPF and amount of GIS to the petitioner within a period of three months from the date of production of certified copy of this order. Petitioner is also directed to submit the certified copy of the compromise held between petitioner and respondent no. 5 within a period of one month from today before Deputy Inspector General of Police, Police Training School, Moradabad as required by him vide letter dated 26.05.2006.

With this direction, writ petition as well as stay application no. nil of 2004 is finally disposed of. No order as costs.

(M.M. Ghildiyal, J)

December 15, 2006
SKSharma